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DOCKET NO. 1000-10-CO1

OCT 21 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: James P. Elia	)	
	)	Group Art Unit: 1646
Serial No.: 09/836,750	)	
	)	Examiner: Elizabeth C. Kemmerer, Ph.D.
Filed: April 17, 2001	)	
	)	
For: METHOD FOR GROWING	)	
MUSCLE IN A HUMAN HEART	)	

**FIFTH SUPPLEMENTAL  
INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed herewith, please find Form PTO-1449 (Modified) pertaining to the above-identified application. A copy of each of the publications listed thereon (References AV-AW) is enclosed.

This Fifth Information Disclosure Statement ("IDS") supplements the Fourth Information Disclosure Statement filed on September 20, 2004, and is submitted to address an issue raised by the Examiner regarding the meaning of the terms "multifactorial" and "nonspecific cells." While Applicant believes that it has used such terms properly and that one skilled in the art would fully comprehend the meaning of such terms, dictionary definitions are included to further acquaint the Examiner with such terms as they are used in the medical arts.

As will be noted from References AV and AW, "multifactorial" and "nonspecific" are adjectives that denote qualities and characterizations of cells.

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"Multifactorial" means: "involving or depending on several factors or causes (especially pertaining to a condition or disease resulting from the interaction of many genes)"

"Nonspecific" means: "...undestined, undetermined, undifferentiated..."

It is clear from a reading of the patent application, the qualities and characteristics of multifactorial and nonspecific cells can be found in cells such as: stem cells, germinal cells, and pluripotent cells.

No one skilled in the art would question that a fundamental property of all of these cells is that they are undifferentiated.

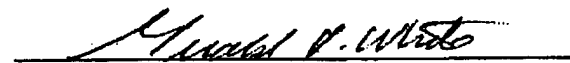
Also, no one skilled in the art would question that the state of being known as "pluripotent" permits a cell to be capable of affecting more than one organ or tissue. A cell's capability to affect more than one tissue or organ involves or depends upon several factors or causes and can result from the interaction of many genes.

This IDS is being submitted in an effort to reduce the number of issues in the instant application and thereby expedite the prosecution thereof.

No fee is believed to be due because Applicant and Applicant's attorney were not aware of such patent more than three (3) months prior to this submission. A certification including such facts is enclosed.

Respectfully submitted,

Date: October 21, 2004



Gerald K. White  
Reg. No. 26,611

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MUSCLE IN A HUMAN HEART )

Group Art Unit: 1646

Examiner: Elizabeth C. Kemmerer, Ph.D.

**CERTIFICATION**


Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450

Sir:

I, Gerald K. White, Attorney for Applicant, hereby state that the two references cited in this Fifth Supplemental Information Disclosure Statement ("IDS") were first discovered by me less than three (3) months prior to the date set forth below.

I further state that no item of information contained in this Fifth Supplemental IDS was cited in a written communication from a foreign patent office in a counterpart foreign application, and, to my knowledge, after making reasonable inquiry, no item of information contained in this Fifth Supplemental IDS was known to any individual designated in 37 C.F.R. 1.56(c) more than three (3) months prior to the filing of this statement.

Respectfully submitted,

Date: October 21, 2004

Gerald K. White  
Reg. No. 26,611

**List of Patents and Publications For  
Applicant's 5<sup>th</sup> Supplemental  
Information Disclosure Statement  
Page 1 of 1**

Form PTO-1449 (Modified)  
(Use several sheets if necessary)

Socket No: 1000-10-CO1

Serial No.: 09/836,750

Group No.: 1646

Filing Date: April 17, 2001

Examiner: Elizabeth  
Kemperer

Applicant: James P. Elia

Reference Designation U.S. PATENT DOCUMENTS							
Examiner Initial		Document Number	Date	Name	Class	Sub-Class	Filing Date (if appropriate)
Foreign Patent Documents							
		Document Number	Date	Country	Class	Sub-Class	Translation Yes No
Other Art (including author, title, date, pertinent pages, etc.)							
	AV	<a href="http://www.dictionary.net">http://www.dictionary.net</a> definition of "multifactorial"					
	AW	<a href="http://www.dictionary.net">http://www.dictionary.net</a> definition of "nonspecific"					
Examiner				Date Considered			
Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							